

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

GLOBALFOUNDRIES U.S. INC.,

Plaintiff,

v.

INTERNATIONAL BUSINESS
MACHINES CORPORATION,

Defendant.

Case No. 7:23-cv-3348 (KMK) (AEK)

PROTECTIVE ORDER, SECTION 18(b)

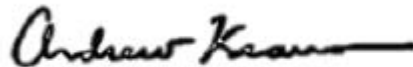
WHEREAS, Plaintiff GlobalFoundries U.S. Inc. and Defendant International Business Machines Corporation (collectively, the “Parties”) previously agreed to the majority of terms of confidentiality in the above-captioned action (the “Action”), and the Court having previously found that good cause exists for the issuance of an appropriately tailored confidentiality order pursuant to Rule 26(c) of the Federal Rules of Civil Procedure. And WHEREAS the Court having previously ordered that the parties submit their respective positions by this date regarding the remaining outstanding issue in the Court’s Protective Order, it is hereby

ORDERED that the following restrictions and procedures shall apply to the information and documents exchanged by the Parties or produced by any non-party in connection with the pre-trial phase of this Action, and operate as Section 18(b) in the Protective Order issued by the Court on November 6, 2023:

(b) Depositions and other pre-trial testimony. Unless otherwise designated during the deposition, all oral depositions shall presumptively be treated as Highly Confidential – Attorney’s Eyes Only Discovery Material subject to this Stipulation and Order during the deposition and for a period of thirty (30) days after the final transcript of said deposition is received by counsel for each of the Parties and any non-party who is given notice under the procedure below; provided, however, that (a) in the event and to the extent that a Party fact witness’s deposition testimony includes confidential information pertaining to non-public business or technical information of a non-party named in paragraphs 7-8 of GlobalFoundries’ Complaint (ECF No. 01A), the portions of such deposition containing confidential information pertaining to non-public business or technical information of a non-party named in paragraphs 7-8 of GlobalFoundries’ Complaint (ECF No. 01A) shall presumptively be treated as the Producing Party’s Highly Confidential – Outside Counsel Eyes Only Discovery Material, and (b) in the event and to the extent that a Party expert witness’s deposition testimony includes information designated as Highly Confidential – Outside Counsel Eyes Only by a non-party named in paragraphs 7-8 of GlobalFoundries’ Complaint (ECF No. 01A), the portions of such deposition containing information designated as Highly Confidential – Outside Counsel Eyes Only by a non-party named in paragraphs 7-8 of GlobalFoundries’ Complaint (ECF No. 01A) shall presumptively be treated as the Designating Party’s Highly Confidential – Outside Counsel Eyes

Only Discovery Material, in either case subject to this Stipulation and Order during the deposition and for a period of thirty (30) days after the final transcript of said deposition is received by counsel for each of the Parties and any non-party who is given notice under the procedure below. The Parties shall give any non-party named in paragraphs 7-8 of GlobalFoundries' Complaint (ECF No. 01A) notice within three (3) business days of the deposition if any business or technical information pertaining to the non-party was discussed in the deposition, and once the final transcript is received by the counsel for the Parties, they shall within five (5) business days provide such non-party a copy of the deposition transcript excerpts pertaining to the non-party business or technical information. Before transmitting, the Parties must redact all portions of the deposition excerpts that contain or discuss Confidential or Highly Confidential Information pertaining to a Party or any other non-party (other than the receiving non-party's own Confidential or Highly Confidential business or technical information); the Parties will confer with each other concerning the appropriate processes for implementing such redactions, including ensuring that all Party Confidential or Highly Confidential Information is properly redacted before transmittal. In the event of any concerns about the scope of the redactions, the redacting Party will also confer in good faith with the non-party named in paragraphs 7-8 of GlobalFoundries' Complaint (ECF No. 01A) that is in receipt of the transcript excerpts. At or before the end of the thirty-day confidentiality period, the entire deposition transcript or parts thereof shall be designated appropriately by any Producing Party or any non-party by written notice by the Designating Party to the court reporter and to all counsel of record. Oral deposition testimony may also be designated as "Confidential" or "Highly Confidential" (including "Highly Confidential – Attorney's Eyes Only" or "Highly Confidential – Outside Counsel's Eyes Only") through a statement to that effect on the record before the conclusion of such oral deposition. Each court reporter shall mark the relevant portions (including exhibits) or such deposition transcript (and where the deposition is videotaped, the relevant portions of the recording) with the legend "Confidential – Designated by Counsel," "Highly Confidential – Designated by Counsel" (including "Highly Confidential – Attorney's Eyes Only – Designated by Counsel" or "Highly Confidential – Outside Counsel's Eyes Only – Designated by Counsel") and shall place the same legend on the cover of any such transcripts or recordings. Upon any challenge to the designation of the final transcript of a deposition, counsel for the Party or non-party challenging the designation shall immediately notify all parties. The provisions of Section E (Challenges to Designations) will thereafter govern any such challenge. The Parties shall also notify any non-party named in paragraphs 7-8 of GlobalFoundries' Complaint (ECF No. 01A) seven (7) days in advance, or at the soonest practical time, of the deposition date for any witness knowledgeable of the Highly Confidential Discovery Material pertaining to that non-party. Nothing in this paragraph, however, shall preclude a witness from reviewing his or her own deposition transcript or recording.

SO ORDERED.



ANDREW E. KRAUSE
United States Magistrate Judge

Dated: December 19, 2023